HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.17015 of 1996

Between:

Smt.Anantha Manga Ratnam … Petitioner

AND

Agent to Government,
East Godavari District, Kakinada and others. … Respondents.

:: O R D E R ::

Counsel for the petitioners : Sri G.Dharma Rao

Counsel for respondent Nos.1 to 3 : Government Pleader for Social Welfare.

Counsel for respondent No.4 : None.

7th June, 2006

This is a petition by Smt.Anantha Manga Ratnam, wife of late Sri Chakra Rao for quashing order dated 16-6-1996 passed by Agent to Government, East Godavari District (respondent No.1) whereby he allowed the appeal preferred by respondent No.4 – Smt. Rayavarapu Nagaratnam and directed that possession of the schedule land be restored to her.

The petitioner is a non-tribal living in Yellavaram Village, Addateegala Mandal of East Godavari District. She claimed to be in possession of land measuring Ac.6.06 cents comprised in Survey No.28/2 situated in Gondolu Village. This land originally belonged to one Rayavarapu Bulli Venkanna, who was recorded as pattadar as per survey and settlement operation undertaken in 1932. He sold the

land to V.Tirupathi Raju, who too belonged to non-tribal community, by registered sale deed dated 26-8-1937. V.Tirupati Raju sold the land to Kancherla Veerabhadra Rao, who, in turn, sold the same to Kancherla Satyanarayana by registered sale deed dated 16-6-1956. Kancherla Satyanarayana sold the land to Anantha Eswara Rao (brother of petitioner's husband) by registered sale deed dated 25-3-1964. The petitioner's husband died in the year 1989. After 15 years, Deputy Collector, Tribal Welfare, Rampachodavaram (respondent No.2) initiated action under Clause 3(1) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (for short, 'the 1959 Regulation') as amended in 1970 for eviction of the petitioner on the ground that the land situated in tribal areas cannot be transferred to non-tribals. The same was registered as L.T.R.P.No.17 of 1989. After conducting enquiry, respondent No.2 passed order on 26-5-1989, whereby he ordered eviction of the petitioner. The appeal filed by the petitioner was allowed by respondent No.1, who remanded the case to respondent No.2 for fresh enquiry. This time, respondent No.2 made a detailed enquiry and then passed order dated 25-6-1994, whereby he ordered restoration of the land to the petitioner.

The aforementioned order was challenged by respondent No.4 in C.M.A.No.22 of 1994. Respondent No.1 noted that all the sale transactions which took place between 1937 and 1964 were between non-tribals and that the same cannot be treated as void; that there is no evidence to establish that the land in question was under the occupation of tribals at any time, and that being a non-tribal, respondent No.4 does not have any concern with the land. Nortwithstanding this, by an order dated 16-6-1996, respondent No.1 allowed the appeal and directed that possession of the land be restored to her.

The petitioner has questioned the legality of order dated 16-6-1996 by contending that the same is perverse. According to her, after holding that the transfer of land among non-tribals is not hit by the

prohibition contained under the 1959 Regulation, and that the appellant (respondent No.4) is also a non-tribal, respondent No.1 was not justified in setting aside well reasoned order dated 25-6-1994 passed by respondent No.2.

I have heard learned counsel for the parties and scanned the record. A reading of the impugned order shows that after noticing the factual matrix of the case (paragraphs 3 to 5), the grounds taken in the appeal filed by respondent No.4 (paragraph 6), the arguments of the advocate representing the petitioner herein (paragraph 10), the report sent by Mandal Revenue Officer, Addateegala (respondent No.3), respondent No.1 observed:

> "…….The sale transactions were all in between the non-tribals since 1937 and the first sale was on 26-8-1937 till the last sale dt.25-3-1964 and hence the sale transactions were not void under the Act 1917 or under the Reg.1 of 1959. There is no evidence available to establish that the petition schedule land was under the occupation of tribals at any time. The petition schedule land does not relate to the ancestors of the petitioner in lower court and appellant herein and she does not belong to Valmiki community (ST). No caste certificate was produced in support of her caste as Valmiki. Actually, she belongs to Adi-Andhra community as deposed by appellant on 26-2-1994 in lower court……..As per previous proceedings in L.T.R.P.No.17/89, dt.26-5-1989 as petition schedule property was handed over to appellant herein on 29-5-1989. In re-enquiry in the matter by the lower court, the petition schedule land did not belong to the ancestors of the petitioner in lower court and appellant herein. As claimed, their surname and the surname of the settlement pattadar was one and the same. The appellant does not, therefore, possess any right over the petition schedule land and she is a non-tribal belongs to Adi-Andhra caste (SC) and she does not belong to 'Valmiki' community (ST). The possession and enjoyment of the petition schedule land by Anantha Eswara Rao till the land was handed over to the appellant herein, as per the orders issued in previous L.T.R.P.No.17/89, dt.26-5-1989 was found to be not in violation to the provisions of the A.P.S.A.L.T.R.1 of 1959."

Notwithstanding the aforementioned findings, respondent No.1 abruptly allowed the appeal preferred by respondent No.4 with costs. This is evinced from the last two paragraphs of the impugned order, which are reproduced below:

> "The claim of the appellant even though belongs to Adi-Andhra Non-tribal for restoration of petition schedule land was considered as the petition schedule land was in her possession and enjoyment.
>
> The appeal is, therefore, allowed with costs."

In my opinion, after having recording a finding that the sale of land among non-tribals is not void and that respondent No.4 is also a non-tribal, respondent No.1 did not have the jurisdiction to annul order dated 26-5-1994. The order under challenge, to say the least, is self-contradictory and represents the total non-application of mind by the officer concerned.

It is also proper to mention that while dismissing the application filed by respondent No.4 through Special Deputy Tahsildar, Tribal Welfare, Addateegala, respondent No.2 made a detailed reference to the various transactions and held that the petitioner does not have the locus standi to claim restoration of the land in question. The said respondent noted that the land in question does not relate to the ancestors of the petitioner (respondent No.4 herein), who belongs to Adi-Andhra (non-tribal caste) as deposed by herself on 26-3-1964. He noted that possession and enjoyment of the land was with Anantha Eswara Rao till the same was handed over to the petitioner (respondent No.4 herein) as per order issued in LTRP No.17/89 dated 26-5-1989 and directed that possession be restored to the respondent (petitioner herein). In the impugned order, respondent No.1 has neither recorded a finding that the adjudication made by respondent No.2 is vitiated by an error of law or the finding recorded by him is not based on proper appreciation of evidence. It must, therefore, be held that the order under challenge suffers from an error of law apparent on the face of the record and is liable to be quashed.

In the result, the writ petition is allowed and the impugned order is quashed.

As a sequel to disposal of the writ petition, WPMP.No.17015 of 1996 filed by the petitioner for interim suspension of the impugned order is disposed of as infructuous.

G.S.SINGHVI, C.J.

7th June, 2006.

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